

AMENDED IN ASSEMBLY APRIL 10, 2013

AMENDED IN ASSEMBLY MARCH 18, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 763**

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**Introduced by Assembly Member Buchanan**

February 21, 2013

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An act to add Sections 17.5 and 48.5 to the Fish and Game Code, and to add Section 64.5 to the Harbors and Navigation Code, relating to aquatic invasive plants and other aquatic pest plants.

### LEGISLATIVE COUNSEL'S DIGEST

AB 763, as amended, Buchanan. Aquatic invasive plants and other aquatic pest plants: control and eradication.

Existing law designates the Department of Boating and Waterways as the lead agency of the state for the purpose of cooperating with agencies of the United States and other public agencies in controlling certain invasive plants in the Sacramento-San Joaquin Delta, its tributaries, and the marsh, and authorizes the department to furnish money, services, equipment, and other property for the control of those invasive plants.

This bill would additionally designate the department as the lead agency of the state for the purpose of cooperating with other state and local public agencies and with agencies of the United States in identifying, detecting, controlling, and administering programs to manage and, when feasible, eradicate invasive aquatic plants and other aquatic pest plants, as defined, in the Sacramento-San Joaquin Delta, its tributaries, and the Suisun Marsh. The bill would authorize the department, in consultation with appropriate state, local, and federal

agencies, and after the Department of Fish and Wildlife concurs upon completion of a specified assessment described in the bill, to take such action it determines is necessary to implement control and, when feasible, eradication measures for those invasive aquatic plants and other aquatic pest plants.

This bill would require the department to regularly consult with the United States Department of Agriculture, the United States Fish and Wildlife Service, the National Oceanic and Atmospheric Administration, the University of California, and other members of the scientific and research communities, and other state agencies with jurisdiction over the control of invasive aquatic plants and aquatic pest plants, to determine which species of those plants should be given the highest priority for treatment, determine the best control measures, and determine any feasible eradication measures. The bill would also require the department, after consulting with those entities, if it identifies a species of invasive aquatic plant or other aquatic pest plant that may need to be controlled, to notify the Department of Fish and Wildlife of the potential threat from that invasive aquatic plant or other aquatic pest plant species.

The bill would require the Department of Fish and Wildlife, after receipt of that notice, in consultation with other appropriate local, state, and federal agencies, to conduct a risk assessment of that invasive aquatic plant or other aquatic pest plant species to determine whether the plant species presents a threat to the environment or economy, as determined after consideration of specified factors. The bill would require the Department of Fish and Wildlife, after completing that assessment, to report its findings to the department so that the department may take any necessary action to control and, when feasible, eradicate an invasive aquatic plant or other aquatic pest plant, as authorized under the bill. The bill would also define the terms, “invasive aquatic plant,” “invasive species,” and “aquatic pest plant,” for purposes of the Fish and Game Code.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

1 (a) The spread of invasive aquatic plants and other aquatic pest  
2 plants has been a continuing problem in the Sacramento-San  
3 Joaquin Delta, its tributaries, and the Suisun Marsh.

4 (b) Invasive aquatic plants and other aquatic pest plants can  
5 obstruct navigation and pose a threat to fisheries and other  
6 ecosystems in the Sacramento-San Joaquin Delta, its tributaries,  
7 and the marsh.

8 (c) Coordinated, early-stage treatment of invasive aquatic plants  
9 and other aquatic pest plants is critical in controlling and managing  
10 those invasive species to protect the state's environment and  
11 prevent harm to California's tourism business and economy.

12 (d) Authorizing the Department of Boating and Waterways to  
13 cooperate with other state, federal, and local agencies in the  
14 identification and management of invasive aquatic plants and other  
15 aquatic pest plants, instead of requiring that the department  
16 undertake legislative action each time an agency identifies a new  
17 species of invasive aquatic plant or other aquatic pest plant, would  
18 enable the state to more effectively manage and control invasive  
19 aquatic plants and other aquatic pest plants in the Sacramento-San  
20 Joaquin Delta, and its tributaries, and the Suisun Marsh.  
21 Management actions should include the control and maintenance  
22 of nonproblematic conditions, and eradication where feasible and  
23 cost-effective.

24 SEC. 2. Section 17.5 is added to the Fish and Game Code, to  
25 read:

26 17.5. "Aquatic pest plant" means a plant or alga that is native  
27 to California that can cause environmental harm.

28 SEC. 3. Section 48.5 is added to the Fish and Game Code, to  
29 read:

30 48.5. (a) "Invasive aquatic plant" means an aquatic plant or  
31 alga that is introduced into the state waters and is determined to  
32 be an invasive species through the risk assessment required to be  
33 completed by the department pursuant to subdivision (c) of Section  
34 64.5 of the Harbors and Navigation Code to be an invasive species,  
35 as defined in subdivision (b).

36 (b) "Invasive species" means an organism; that has been  
37 introduced into the state through human activity and that is  
38 injurious, or likely to cause injury, to the state's environment or  
39 economy.

SEC. 4. Section 64.5 is added to the Harbors and Navigation Code, to read:

64.5. (a) The department is designated as the lead agency of the state for the purpose of cooperating with other state and local public agencies, and agencies of the United States in identifying, detecting, controlling, and administering programs to manage and, when feasible, eradicate invasive aquatic plants and other aquatic pest plants in the Sacramento-San Joaquin Delta, its tributaries, and the Suisun Marsh. The department, in consultation with appropriate state, local, and federal agencies, may take such action it determines is necessary, after the Department of Fish and Wildlife concurs upon completion of the risk assessment described in subdivision (c), to implement control and, when feasible, eradication measures for invasive aquatic plants and other aquatic pest plants. Any actions taken to control invasive aquatic plants or aquatic pest plants shall be in compliance with all applicable laws and regulations and conducted in an environmentally sound manner.

(b) The department shall regularly consult with the United States Department of Agriculture, the United States Fish and Wildlife Service, the National Oceanic and Atmospheric Administration, the University of California, and other members of the scientific and research communities, as well as other state agencies with jurisdiction over the control of invasive aquatic plants and other aquatic pest plants to determine which species of those plants should be given the highest priority for treatment, determine the best control measures, and determine any feasible eradication measures.

(c) (1) After consulting with the various entities as required in subdivision (b), if the department identifies a species of invasive aquatic plant or other aquatic pest plant that may need to be controlled, it shall notify the Department of Fish and Wildlife of the potential threat from that plant species. After receipt of that notice, the Department of Fish and Wildlife, in consultation with other appropriate local, state, and federal agencies, including, but not limited to, *the Department of Food and Agriculture*, the Department of Water Resources, the State Water Resources Control Board, the Department of Pesticide Regulation, and the Office of Environmental Health Hazard Assessment, shall conduct a risk assessment of the invasive aquatic plant or other aquatic pest plant

1 species identified by the department to determine whether the plant  
2 species presents a threat to the environment or economy. In making  
3 that determination, the department shall take prompt action to  
4 minimize detrimental impacts and costs of management, and shall  
5 consider all of the following:

6 (A) Whether the invasive aquatic plant species or other aquatic  
7 pest plant may cause environmental damage, including threats to  
8 the health and stability of fisheries, damage to migratory and other  
9 birds' access to waterways and nesting areas, deterioration of water  
10 quality resulting from plant decay, and harm to native plants.

11 (B) Whether the invasive aquatic plant or other aquatic pest  
12 plant species may cause harm to the state's economy, infrastructure,  
13 or manmade facilities such as state water storage facilities and  
14 pumping operations, by increasing flood risk, threatening water  
15 supplies by blocking pumps, canals, and dams necessitating early  
16 control efforts.

17 (C) Whether the invasive aquatic plant or other aquatic pest  
18 plant species may obstruct navigation and recreational uses of  
19 waterways.

20 (2) Based on factors specified in subparagraphs (A), (B), and  
21 (C) of paragraph (1) and any other environmental or economic  
22 impacts, the risk assessment shall specify whether the plant species  
23 under consideration has been determined to be an invasive aquatic  
24 plant or other aquatic pest plant, or neither of those types of plants.  
25 Findings from the risk assessment shall be documented in a way  
26 that makes clear the severity and types of impacts caused by a  
27 plant species determined to be an invasive aquatic plant or other  
28 aquatic pest plant.

29 (3) After completing the risk assessment required by paragraph  
30 (1), the Department of Fish and Wildlife shall report its findings  
31 to the department so that the department may take any necessary  
32 action to control, and when feasible, eradicate an invasive aquatic  
33 plant or other aquatic pest plant, as authorized under subdivision  
34 (a).

35 (d) (1) For purposes of this section, "invasive aquatic plant"  
36 means an aquatic plant or alga that is introduced into the state  
37 waters and is determined through the risk assessment completed  
38 pursuant to subdivision (c) to be an invasive species, as defined  
39 in paragraph (2).

1     (2) For purposes of this section, “invasive species” means an  
2     organism that has been introduced into the state through human  
3     activity and that is injurious, or likely to cause injury, to the state’s  
4     environment or economy.

5     (3) For the purposes of this section, an “aquatic pest plant”  
6     means a plant or alga that is native to California that can cause  
7     environmental harm.

8     (e) This section does not require the department to attempt  
9     eradication of any of the plants specified in Section 64.